

**REGULAR MEETING  
MARCH 18, 1999**

The Ashland Board of Commissioners met in Regular Session in the Commission Chambers, City Building, Ashland, Kentucky, on Thursday, March 18, 1999, at the hour of 7:00 PM. Those present were Commissioners: Nancy Dickinson, Paul Reeves, Kevin Gunderson, Michael Stewart and Mayor A. R. Dunnigan, who presided. Also present were: William H. Fisher, Jr., City Manager; Richard W. Martin, Corporation Counsel; Kevin P. Sinnette, Assistant Corporation Counsel; Deborah D. Musser, City Clerk; Gary Watts, Fire Chief; Ronald W. McBride, Chief of Police; Tony Grubb, Finance Director; Doug Burns, Director of Planning and Community Development; Joseph P. Harris, Director of Public Services; Amanda Sinnette, Economic Development Director; Marion Russell, Assistant Director of Public Services; Michelle Veach, Assistant Finance Director, Mike Rogers, Mass Transit Superintendent; Captain Don O’Pell and Captain Tom Kelley, Ashland Police Department; Brenda Kesling, ABC/CATV/License Fee Administrator; Bruce Craft, Recreation Division; Kathy Wages, Department of Planning and Community Development; Tim Moore, Department of Public Services and Reporters.

The invocation was given by Commissioner Gunderson.

The Pledge of Allegiance was conducted.

**AGENDA**

City Manager Fisher presented the agenda of March 18, 1999. Motion was made by Stewart, seconded by Gunderson, to receive and file the agenda. Upon roll call, voting aye were Commissioners Dickinson, Reeves, Gunderson, Stewart and Mayor Dunnigan. Nay - none. Motion passed.

**MINUTES**

Motion was made by Stewart, seconded by Reeves, to dispense with the reading and approve the minutes of the Regular Meetings held on January 21 and February 4, 1999, the Recessed Meetings held on February 10 and February 20, 1999 and the Called Meeting held on February 18, 1999. Upon roll call, voting aye were Commissioners Dickinson, Reeves, Gunderson, Stewart and Mayor Dunnigan. Nay - none. Motion passed.

**DISCUSSION ITEM**

**Discussion and possible action authorizing the City Manager to implement negotiations leading to the purchase of land for industrial development** - Suggestions were requested from City Officials as well as private investors interested in developing a site for review.

**ORDINANCE NO. 20, 1999**

**SECOND**     AN ORDINANCE OF THE CITY OF ASHLAND,  
**READING**   KENTUCKY,        CREATING        AN  
OCCUPATIONAL LICENSE **AND**        FEE TO BE  
CHARGED TO THOSE PARTIES WHO **FINAL**  
PRACTICE A BUSINESS, TRADE OR  
PROFESSION **ADOPTION** WITHIN        ASHLAND’S  
CORPORATE LIMITS, PROVIDING FOR THE  
COLLECTION OF SUCH FEE AND A PENALTY FOR THE

BE IT ORDAINED BY THE CITY OF ASHLAND, KENTUCKY:

**REGULAR MEETING MARCH 18, 1999**  
**ORDINANCE NO. 20, 1999 CONTINUED**

SECTION 1. DEFINITIONS.

The following words, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning:

“CORPORATION”. A corporation or joint stock association organized under the laws of the United States, the state, or any other state, territory or foreign country or dependents.

“EMPLOYEE”. Any person who renders services to another for a financial consideration or its equivalent, under an express or implied contract, and who is under the control and direction of the latter, and shall include temporary, provisional, casual or part-time employment.

“EMPLOYER”. An individual, partnership, association, corporation, governmental body or unit or administration or agency, or any other entity, who as that employer has one (1) or more persons on a salary, wage, commission or other compensation basis, regardless of whether such employer is engaged in business or is excluded by the terms of that definition.

“NET PROFIT”. The net income from the operation of a business or enterprise after provision for all costs or expenses incurred in the conduct thereof and shall be the same as reported for federal income tax purposes, excluding items exempted under this ordinance but without deduction of taxes based on income or the license fee imposed under this article or any operating loss carry-over or carry-back.

“NONPROFIT ORGANIZATIONS”. Trade association, union, chamber of commerce, board of trade or corporation or association organized and operated exclusively for religious, charitable, scientific, literary, educational or civic purposes, or for the prevention of cruelty to children or animals; or clubs or fraternal organizations operated exclusively for social, literary, educational or fraternal purposes, where no part of the earnings or income or receipts of such units, groups or associations inures to the benefit of any private shareholder or individual.

“NONRESIDENT”. An individual, partnership, fiduciary, association or other entity domiciled outside the corporate limits of the city.

“RESIDENT”. An individual, partnership, association, corporation or other entity domiciled or having a business situs within the corporate limits of the city.

“SALES”. Net sales of merchandise or of services, or of both, computed by whatever method of accounting is authorized for federal income tax purposes.

“SALES WITHIN THE CITY”. Includes sales of merchandise delivered to a customer within the city or services performed within the city for a customer.

SECTION 2. LEVY OF LICENSE FEE - GENERAL.

There is hereby levied and imposed an annual license fee upon all persons, associations, corporations or other entity engaged in any occupation, trade, profession or other activity in the city for the privilege of engaging in such occupation, trade, profession or other activity, which license fee shall be measured by and be equal to one and one-half percent (1½%) of all salaries, wages, commissions and other compensation, (including employee contributions to pension and other deferred compensation plans) earned by every person in the city for work done or services performed or rendered in the city; and the net profits of all businesses, professions or occupations from activities conducted in the city.

SECTION 3. EMPLOYEES.

1. EMPLOYEES IN GENERAL.

The license fee is imposed on both residents and nonresidents of the city at the rate of one and one-half percent (1½%) of all salaries, wages, commissions and other compensation (including employee contributions to

an agent and whether in cash or in property, for services rendered:

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**ORDINANCE NO. 20, 1999 CONTINUED**

- a. As an officer, agent or employee, or both, of a corporation (including a corporation of the first or nonprofit class), joint stock association or joint stock company;
- b. As an officer, agent or employee (as distinguished from a partner or member) of a partnership, limited partnership or any other form of unincorporated enterprise owned by one (1) or more persons;
- c. As an agent employee (as distinguished from the proprietor) of a business, trade or profession, conducted by an individual owner;
- d. As an officer, agent or employee (whether elected or appointed, enlisted or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, section or unit thereof.
- e. As an officer, agent or employee of any other entity.

(2) Salaries, wages and other compensation received by an individual, whether directly or through an agent and whether in cash in or in property, for services rendered:

- a. Whether based upon hourly, daily, weekly, semimonthly, monthly, annual, unit of production or piece-work rates; and
- b. Whether paid by an individual, partnership, association, corporation (including a corporation of the first or nonprofit class), governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, section or unit, or any other entity.

(3) Commissions received by an employee, whether directly or through an agent, and whether in cash or in property, for services rendered, regardless of how computed or by whom paid. If such

such fees are properly included as part of the net profits of a trade, business, profession or enterprise regularly carried on by the individual and such net profits are subject to tax under section 4. Fees paid to a director or officer of a corporation are subject to withholding under this article as in the case of any other employee.

(5) Other compensation will be treated as follows:

a. SUBJECT TO THE LICENSE FEE:

(i) Tips received by waiters and others: Tips received are subject to the license fee and will be reported in the same manner as regular earnings.

(ii) Vacation, holiday and/or sick benefits: Payments made to employees by an employer as vacation, holiday and/or sick payments are subject.

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**ORDINANCE NO. 20, 1999 CONTINUED**

(iii) Separation payments: Payments made to employees by an employer at the time of a voluntary or involuntary separation (dismissal) of the employee from the service of the employer, are to be regarded as subject to the license fee.

(iv) Deferred compensation: Payments made to deferred compensation and/or other pension funds are subject to one and one-half percent (1½%) license fee at time of payment into fund.

b. NOT SUBJECT TO THE LICENSE FEE:

(i) Old-age or retirement payments: Periodical payments commonly recognized as old-age or retirement pensions, made to persons retired from service after reaching a specified age or after a stated period of

to the license fee.  
Unemployment compensation  
payments by the state or any  
other agency are not subject.

(iii) Death benefits: Death  
benefits payable by an  
employer to the beneficiary  
of an employee or to his  
estate, whether payable in a  
single sum or otherwise, are  
not subject to the license  
fee.

(iv) Benefits arising under the  
workmen's compensation act:  
Amounts received by employees  
under the workmen's  
compensation act as  
compensation for a disability  
sustained during the course  
of employment, together with  
any amount of damages  
received by suit or agreement  
on account of such  
disability, are not subject  
to the license fee.

c. APPLICABILITY OF THE FOREGOING TO  
EMPLOYEES WHOSE COMPENSATION IS  
NOT WHOLLY SUBJECT:

In the case of individuals whose  
compensation is earned for  
services performed both within and  
without the city and who receive  
subject payments as set forth in  
the foregoing rules and  
regulations, they are subject to  
the license fee in the same  
proportion that services performed  
within the city bear to their  
total employment time.

(B) WITHHOLDING OF LICENSE FEE.

(1) It is the duty of each employer who  
employs one (1) or more persons on a  
salary, wage, commission or other  
compensation basis, to deduct monthly  
or more often, at the time of the  
payment of such compensation, the  
license fee on such salary, wage,  
bonus, incentive payment, commission or  
other compensation due by the employer  
to the employee. The license fee shall  
be deducted by the employer from all  
compensation paid to employees for  
activities in the city. However, the  
mere fact that the license fee is not  
withheld will not relieve the employee  
of the responsibility of filing a  
return and paying the fee on the

therein, or who is otherwise subject to service of legal process, is subject to the withholding provisions of this ordinance.

- (2) Where an individual receives compensation for personal services rendered or performed partly within and partly outside the city, the withholding agent shall deduct and withhold that portion of the compensation which is earned within the city in accordance with the following rules of apportionment:
- a. If the individual is a traveling salesman, agent or other employee, whose compensation on the basis of commissions depends directly on the volume of business transacted by him, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted by the employee within the city bears to the volume of business transacted by him both within and outside of the city.
  - b. The deducting and withholding of personal service compensation of all other employees, including officers of corporations, shall attach to the portion of the personal service compensation of such employee which the total number of hours employed within the city bears to the total number of hours employed both within and outside the city.
  - c. If it is impossible to apportion the earnings as provided above because of the peculiar nature of the services of the employee, or of the usual basis of compensation, apportionment shall be made in accordance with the facts, and the fee deducted and withheld accordingly. With respect to each such employee or group of employees similarly or identically circumstanced, the employer shall furnish the Finance Director a detailed statement of facts.
  - d. The occasional entry into the city of an employee, who performs the duties for which he is employed entirely outside the city, but

- (C) RETURNS OF LICENSE FEE WITHHELD AND PAYMENT.
- (1) The return and payment required to be made on account of deductions by employers from salaries, wages and other compensation of employees shall be made on the twentieth (20th) day of the month following the end of the calendar quarter.
  - (2) If the twentieth (20th) day of the month following the end of the calendar quarter falls on a Saturday, Sunday or legal holiday, the return and payment shall be made on the next regularly scheduled working day. If the envelope bearing the return(s) is postmarked on or before the due date, late filing penalties will not apply.
  - (3) The return required to be filed under this ordinance shall be made on a form furnished by or obtainable from the License Fee Division.

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**ORDINANCE NO. 20, 1999 CONTINUED**

- (4) On or before January 31 of each year, each employer shall file with the License Fee Division on the form prescribed by the Finance Director an annual information return listing each employee from whom the license fee has been withheld, showing the employees name, Federal ID number (Social Security Number), total annual compensation, total annual compensation subject to the license fee and the amount of license fee withheld from each employee during the following calendar year.
- (5) The annual information return shall include a copy of form W-2 for each employee.
- (6) The gross compensation to be reported for each employee should be for the full twelve (12) calendar months of the year, or such portion thereof as the employee reported on was employed.
- (7) The failure of any employer, either residing within or outside of the city, to collect the license fee and to make such return shall not relieve the employee from the payment of such fee in compliance with these regulations respecting the making of returns and the payment of license fees.
- (8) Every employer is deemed to be a

collected by such employer or not.

- (9) Every employer is required to submit a copy of Forms 1096 and the respective Form 1099s to reflect monies earned by contract labor, subcontractors, etc.

#### SECTION 4. NET BUSINESS PROFIT.

(A) GENERAL. In the case of an individual, partnership, association, corporation, fiduciary or other entity engaged in the conduct, operation or prosecution of any business, profession or other enterprise, there is imposed an annual license fee being the greater of One Hundred Dollars (\$100.00) or one and one-half percent (1½%) of the net profits of such business, profession or other enterprise, if and to the extent conducted in or derived from activity in the city. In determining the proportion or amount of the subject net profits of a business entity doing business within and without the city, such business entity shall use and apply a business allocation percentage formula computed on the basis of business receipts within and without the city and payrolls within and without the city. "Business receipts" means the sum total of gross receipts from sales plus gross credit or charges for work done and performed or services rendered. "Payrolls" means the total wages, salaries and other personal service compensation. The business allocation percentage is computed by determining the percentages which city business receipts (see paragraph (3) below) bear to licensee's entire business receipts wheresoever derived, including those derived from the city, and which payrolls paid by licensee within the city bear to licensee's entire payroll wheresoever paid, including city payrolls, adding together the two (2) percentages so arrived at, and dividing the total by two (2). However, if one (1) of the factors, receipts or payrolls, is missing, the remaining percentage is the business allocation percentage. A factor is not to be deemed missing merely because the expenditures of the licensee for payrolls or the gross receipts of the licensee are found to be situated, incurred or received either entirely within or entirely without the city.

1. Determination of fee: After determining such business allocation percentage, the license fee shall be determined by applying that percentage to the entire net profits of the license payer wherever derived, thus arriving at the subject net profit, and computing one (1) percent of the resultant subject net profit.

#### **REGULAR MEETING MARCH 18, 1999** **ORDINANCE NO. 20, 1999 CONTINUED**

2. Fee adjustment: In case it shall appear to the Director of Finance that any agreement, understanding or arrangement exists between the license



so as equitably to determine the license fee.

3. Explanation of business receipts factor: The percentage of the license payer's business receipts within the city is determined by ascertaining the taxpayer's business receipts within the city during the period covered by the report and dividing the sum of such business receipts by the license payer's total business receipts within and without the city during such period. Receipts from the following are allocable to the city:

1. Sales of the licensee's tangible personal property delivered to the buyer within the corporate limits of the city.
2. Work done and performed or services rendered in the city.
3. Rentals from property situated in the city where the rental of such property is a business activity.
4. All other business receipts earned in the city. All receipts of the period covered by the report (computed on the cash or accrual basis, in accordance with the method of accounting used in the computation of the license payer's entire net income) must be taken into account.

4. Compensation for work done and performed or services rendered:

1. The term "compensation" may include not only payment in cash or property but also the gross credits to or charges by the licensee, under its normal and usual accounting practices, for the performance of work or services. For example, a plant, factor or other establishment in the city which processes material or manufactures parts for other plants or factories owned by the licensee, and which may receive credit for the performance of such services only by bookkeeping entries, may be chargeable under this ordinance with the gross amount of such entries in applying the formula discussed hereunder. Furthermore, such bookkeeping entries may be considered in lieu of cash or property payment in determining the net profits of any

ordinance, the same licensee shall not be twice subject in the same fee period by the separate imposition of a fee upon such gross credits or charges.

**REGULAR MEETING MARCH 18, 1999**  
**ORDINANCE NO. 20, 1999 CONTINUED**

2. Compensation and other receipts from work done or services performed within the city are allocable to the city and subject under this ordinance. All amounts so received credited or charged by a licensee in payment for such work or services are so allocable, irrespective of whether done or performed by employees or agents of the licensee, by subcontractors or by any other persons. It is immaterial where such amounts were payable or where they were received. Commissions or fees received by the licensee are allocated to the city if the services for which the commissions were paid were performed in the city. If the license payer's services for which commissions or fees were paid were performed for the license payer by sales men or other agents or employees attached to or working out of the city place of business of the licensee, the licensee's services will be deemed to have been performed in the city. Where a lump sum is received by the licensee in payment for services within and without the city, the amount attributable to services within the city is to be determined on the basis of the relative values of, or amounts of time spent in the performance of, such services within and without the city, or by some other reasonable method approved by the Finance Director. Full details must be submitted with the licensee's report.
- c. All business receipts earned by

by the licensee for sale to customers in the regular course of business) are not business receipts. Receipts from the sale of real property held by the licensee as a dealer for sale to customers in the regular course of business are business receipts and are allocable to the city if the real property was situated in the city. Receipts from sales of intangibles included in business capital, held by the licensee as a dealer for sale to customers in the regular course of business, are business receipts and are allocable to the city if the sales were made in the city or through a regular place of business of the licensee in the city.

(5) Payroll factor:

1. The percentage of the license payer's payroll allocable to the city is determined by dividing the wages, salaries and other personal service compensation of the licensee's employees within the city during the period covered by the report by the total amount of compensation of all the licensee's employees during such period. Wages, salaries and other compensation are computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the licensee.

**REGULAR MEETING MARCH 18, 1999**  
**ORDINANCE NO. 20, 1999 CONTINUED**

2. Employees within the city include all employees regularly connected with a place of business maintained by the licensee in the city. Wherever it appears that the licensee's payroll was paid to employees attached to places of business outside the city who performed services within the city, the payroll factor is to be computed by deriving the

- (1) In the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within the city;
- (ii) In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation which the value of his services within the city bears to the value of all his services; and
- (iii) In the case of an employee compensated on a time basis, the proportion of the total amount received by him which the working time employed in the city bears to the total working time.
- (iv) The accounting method used to compute net profits subject to the license fee shall be the same as the method used to compute net income for federal income tax purposes, excluding all taxes based on net income, license fees imposed under this ordinance and the net operating loss carry-forward or carry-back used to reduce net income for the current year.

(B) NEW BUSINESS LICENSE FEE:

Every person conducting a business as defined in this article shall obtain a license from the license fee division before commencement of such business, the fee for which shall be One Hundred Dollars (\$100.00).

This fee will be credited in full to the account of the license payer and applied against the annual net business profit fee.

Every entity conducting business within the city must file with the License Fee Division a statement of estimated net profits to be earned during the accounting year prior to issuance of the license. Upon the filing, the entity shall pay one-fourth ( $\frac{1}{4}$ ) of any license fees estimated to be due. Thereafter, at the end of each month succeeding each calendar quarter each licensee shall pay to the city one-fourth ( $\frac{1}{4}$ ) of said estimated license fees due.

SECTION 5. EXEMPTION OF DOMESTIC SERVANTS.

No license under this ordinance shall be required of domestic workers employed at private homes.

Every person whose earnings of net profits are subject to the license fee imposed by this ordinance shall, on or before the 15th day of the fourth month following the close of each accounting year, file an annual return with the License Fee Division.

Where the entire earnings for the year are paid by one and the same employer and the license fee has in each instance been withheld or deducted by the employer from the gross amount of compensation without adjustment for expenses, it shall not be necessary for such employee to file a return for the year unless required or requested to do so by the Finance Director.

If the return is made for a fiscal year or for any period other than a calendar year, the return shall be made on the fifteenth (15th) day of the fourth month following the end of the fiscal year or period.

The person making the return shall, at the time of filing thereof, pay to the city the amount of the fee shown to be due by the return.

Where any portion of the license fee otherwise due shall have been deducted at the source and shall have been paid to the city by the person making the deduction, a credit equal to the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of the filing of the return.

If a licensee shall terminate his business or employment for which the license fee has not withheld, during the calendar or fiscal year, the proper return shall be filed and the tax paid on the fifteenth (15th) day of the fourth month after the termination of the business or employment.

If the due date of a return falls on a Saturday, Sunday or legal holiday, the return shall be filed on the next regularly scheduled work day. If the envelope bearing the return is postmarked on or before the due date, late filing penalties will not apply.

An executed copy of the licensee's federal income tax return or any other pertinent information as required by the Finance Director shall be filed with the annual return.

#### SECTION 7. SAME - EXTENSION OF TIME FOR FILING RETURNS.

An extension of time for filing a license fee return may be granted if the licensee notifies the License Fee Division in writing by the due date for filing the return. The period shall not exceed the time period granted for filing an entity's federal income tax return. If an extension of time for filing the federal tax return is approved by the Internal Revenue Service, it shall also constitute an extension of time for filing a license fee return if the License Fee Division is notified in writing on or before the due date of the return. Copies of all extensions for filing a federal tax return must be attached to the license fee return when it is filed with the city.

The licensee shall remit any license fees due with the written request for an extension of time for filing.

SECTION 8. ENFORCING OFFICERS: BOARD AND CLERK

claimed or found to have been made; and the rules and regulations promulgated by him shall be binding upon the licensee and the employers.

The Finance Director or any agent or employee designated in writing by him is hereby authorized to examine the books, papers and records of any employer or supposed employer or of any licensee or supposed licensee in order to determine the accuracy of any return made, or if no return was made, to ascertain the amount of license fee imposed by the terms of this ordinance. Each such employer or supposed employer or licensee or supposed licensee is hereby directed and required to give to the Finance Director or his duly authorized agent or employee the means, facilities and opportunity for such examination and investigation as are hereby authorized. The Finance Director is hereby authorized to examine any person under oath concerning any wages, salaries, commissions or other compensation or net profits which were or should have been returned; and to this end he may compel the production of books, papers, records and the attendance of all persons before him, whether as parties or witnesses, whom he believes to have knowledge of such wages, salaries, commissions or other compensation or net profits, to the extent that any officer empowered to administer oaths in this state is permitted to so order.

**REGULAR MEETING MARCH 18, 1999**

**ORDINANCE NO. 20, 1999 CONTINUED**

SECTION 9. EXCLUSION OF LEVIES PROHIBITED BY LAW.

It is not the intention of the city or of this ordinance to impose and require an occupational license fee prohibited by law.

SECTION 10. INFORMATION CONFIDENTIAL.

Any information gained by the Finance Director or any other official or agent or employee of the city as a result of any returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, except for official purposes and except in accordance with proper judicial order, or as otherwise provided by law; and any person or agent divulging such information shall, upon conviction, be subject to a fine not exceeding One Hundred Dollars (\$100.00) or imprisonment not exceeding ten (10) days or both at the discretion of the court; however, such persons may disclose to the state commissioner of revenue or his duly authorized agent all such information and right to inspect any of the books and records of the city if the state commissioner of revenue grants to the city the reciprocal right to obtain information from the files and records of the state department of revenue and maintains the privileged character of the information so furnished to him.

SECTION 11. PENALTIES.

A penalty of ten (10%) percent on any license fees remaining unpaid after they become due shall be assessed.

Interest at the rate of twelve (12%) percent per annum shall be added to any license fee remaining unpaid

incomplete, false or fraudulent return. No person shall fail, neglect or refuse to apply for an occupational license tax reporting number. No person shall attempt to do anything whatever to avoid the full disclosure of the amount of earnings or profits in order to avoid payment of the whole or any part of the occupational license tax.

A person who shall violate any of the provisions of subsection (a) shall be fined not less than Twenty-five Dollars (\$25.00) and not more than Five Hundred Dollars (\$500.00), or imprisoned for a term not exceeding thirty (30) days, or both such fine and imprisonment.

SECTION 13. REVENUE TO BE DEPOSITED IN GENERAL FUND.

All revenue derived under this article shall be deposited in the General Fund.

SECTION 14. That Ordinance No. 116, series of 1993, is hereby repealed.

SECTION 15. All ordinances of the City of Ashland and any parts of ordinances in conflict herewith, to the extent of such conflict only, are hereby repealed.

SECTION 16. This ordinance shall be in full force and effect from and after its adoption, readoption and publication, as required by law, effective July 1, 1999.

/s/A. R. DUNNIGAN  
MAYOR

ATTEST:

/s/DEBORAH D. MUSSER  
CITY CLERK

ADOPTED BY THE BOARD OF COMMISSIONERS: March 17, 1999  
READOPTED BY THE BOARD OF COMMISSIONERS: March 18, 1999  
PUBLISHED:

### **DISCUSSION**

Mike Blevins, President of the Steelworkers Local and Vice-President of the Ashland Area Labor Council, questioned the Commission about their payment of the payroll tax.

William D. May, 610 25<sup>th</sup> Street, representing J. C. Penney employees who opposed the payroll tax.

### **REGULAR MEETING MARCH 18, 1999** **ORDINANCE NO. 20, 1999 CONTINUED**

Marshall McKenzie, 1509 Montgomery Avenue, opposed the payroll tax.

Robin Kendall, 4613 Sherwood Drive, appealed to the Commission to reconsider passage of the payroll tax.

Ann Woods, 3708 West Straight Creek, an employee at KDMC, presented a petition opposing the payroll tax.

Peggy Sue Worthington, 924 Blackburn Avenue, stated that

in other taxes if the money is needed.

Mark Adams, CPA, explained filing by PSC companies and explained that pro-rata formulas are applied in the case where an employee does not spend all work time in the City.

**MOTION**

Motion was made by Gunderson, seconded by Stewart, to adopt Ordinance No. 20, 1999, at this its second reading. Upon roll call, voting aye were Commissioners Dickinson, Gunderson, Stewart and Mayor Dunnigan. Nay - Commissioner Reeves. Motion passed.

**ORDINANCE NO. 21, 1999**

**SECOND**

AN ORDINANCE OF THE CITY OF ASHLAND, **READING** KENTUCKY, IMPOSING A LICENSE FEE UPON **AND** INSURANCE COMPANIES FOR THE PRIVILEGE OF **FINAL** ENGAGING IN THE BUSINESS OF INSURANCE **ADOPTION** WITHIN THE CORPORATE LIMITS OF THE CITY OF ASHLAND, KENTUCKY EFFECTIVE JULY 1, 1999, AND THEREAFTER ON A CALENDAR YEAR BASIS; ESTABLISHING INSURANCE COMPANY LICENSE FEE RATES AS 10% OF THE FIRST YEAR PREMIUMS FOR LIFE INSURANCE, AND 10% OF THE PREMIUMS FOR ALL OTHER TYPES OF INSURANCE ACTUALLY COLLECTED WITHIN EACH CALENDAR QUARTER EFFECTIVE JULY 1, 1999, AND THEREAFTER UNTIL AMENDED; ESTABLISHING A PENALTY INTEREST CHARGE AT THE TAX INTEREST RATE AS DEFINED BY STATUTE; AND REQUIRING INSURANCE COMPANIES SUBJECT TO THE LICENSE FEE TO FURNISH ANNUAL COLLECTION INFORMATION AND REPEALING ORDINANCE NO. 35, SERIES OF 1998.

\* \* \* \* \*

BE IT ORDAINED BY THE CITY OF ASHLAND, KENTUCKY:  
SECTION 1. There is hereby imposed, pursuant to KRS 91A.080, on each insurance company a license fee for the privilege of engaging in the business of insurance within the corporate limits of the City of Ashland, Kentucky, effective July 1, 1999, and thereafter on a calendar year basis.

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**ORDINANCE NO. 21, 1999 CONTINUED**

SECTION 2. The license fee imposed upon each insurance company which issues life insurance policies on the lives of persons residing within the corporate limits



those classes of business which such company is authorized to transact, less all premiums returned to policy holders; however, any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or death caused thereby, under the provisions of the Workers' Compensation Act and shall not include premiums received on policies of group health insurance provided for state employees under KRS 18A.225(2) and KRS 18A.228.

SECTION 4. All license fees imposed by this ordinance shall be due no later than thirty (30) days after the end of each calendar quarter. License fees which are not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6).

SECTION 5. Every insurance company subject to the license fee imposed by this ordinance shall annually, by March 31, furnish the City of Ashland, Kentucky, with a written breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) casualty; (b) automobile; (c) inland marine; (d) fire and allied perils; (e) health; (f) professional malpractice; (g) bonds; (h) life; and (i) all others.

SECTION 6. The City Clerk is hereby directed to transmit a copy of this ordinance, and any amendment thereto, to the Commissioner of Insurance, Commonwealth of Kentucky.

SECTION 7. The following ordinances, as hereinafter indicated by ordinance number and title, is superseded by this ordinance and is hereby repealed:

#### **ORDINANCE NO. 35, 1998**

AN ORDINANCE OF THE CITY OF ASHLAND, KENTUCKY, IMPOSING A LICENSE FEE UPON AND INSURANCE COMPANIES FOR THE PRIVILEGE OF ENGAGING IN THE BUSINESS OF INSURANCE WITHIN THE CORPORATE LIMITS OF THE CITY OF ASHLAND, KENTUCKY EFFECTIVE JULY 1, 1999, AND THEREAFTER ON A CALENDAR YEAR BASIS; ESTABLISHING INSURANCE COMPANY LICENSE FEE RATES AS 10% OF THE FIRST YEAR PREMIUMS FOR LIFE INSURANCE, AND 10% OF THE PREMIUMS FOR ALL OTHER TYPES OF INSURANCE ACTUALLY COLLECTED WITHIN EACH CALENDAR QUARTER EFFECTIVE JULY 1, 1999, AND THEREAFTER UNTIL AMENDED; ESTABLISHING A PENALTY INTEREST CHARGE AT THE TAX INTEREST RATE AS DEFINED BY STATUTE; AND REQUIRING INSURANCE COMPANIES SUBJECT TO THE LICENSE FEE TO FURNISH ANNUAL COLLECTION INFORMATION AND REPEALING ORDINANCE NO. 35, SERIES OF 1998.

and all other ordinances and parts of ordinances in conflict herewith, to the extent of such conflict only are hereby repealed.

SECTION 8. This ordinance shall become effective on July 1, 1999.

SECTION 9. This ordinance shall be in full

**REGULAR MEETING MARCH 18, 1999**  
**ORDINANCE NO. 21, 1999 CONTINUED**

ATTEST:

/s/DEBORAH D. MUSSER  
CITY CLERK

ADOPTED BY THE BOARD OF COMMISSIONERS: March 17, 1999  
READOPTED BY THE BOARD OF COMMISSIONERS: March 18, 1999  
PUBLISHED:

**MOTION**

Motion was made by Gunderson, seconded by Stewart, to adopt Ordinance No. 21, 1999, at this its second reading. Upon roll call, voting aye were Commissioners Dickinson, Gunderson, Stewart and Mayor Dunnigan. Nay - Commissioner Reeves. Motion passed.

**ORDINANCE NO. 22, 1999**

**SECOND** AN ORDINANCE OF THE CITY OF ASHLAND,  
**READING** KENTUCKY, AUTHORIZING A. R.  
DUNNIGAN, **AND** MAYOR, TO EXECUTE A  
SERVICE AGREEMENT **FINAL** BETWEEN THE  
CITY OF ASHLAND, KENTUCKY, AND **ADOPTION**  
KENTUCKY POWER COMPANY, FOR A  
PERIOD OF TWO (2) YEARS FOR ELECTRICAL  
CONTRACTING SERVICES FOR THE DEPARTMENT  
OF PUBLIC SERVICES.

\* \* \* \* \*

BE IT ORDAINED BY THE CITY OF ASHLAND, KENTUCKY:  
SECTION 1. That the Mayor, A. R. Dunnigan, is hereby authorized and directed to execute on behalf of said City a service agreement between the City of Ashland and Kentucky Power Company, for a period of two (2) years for electrical contracting services for the Department of Public Services, said agreement is attached hereto and made a part hereof by reference.

SECTION 2. All other ordinances or parts of ordinances in conflict herewith, to the extent of such conflict only, are hereby repealed.

SECTION 3. This ordinance shall be in full force and effect from and after its adoption, readoption and publication, as required by law.

SECTION 4. It is hereby authorized that publication of this ordinance be in summary form.

/s/A. R. DUNNIGAN  
MAYOR

ATTEST:

Motion was made by Stewart, seconded by Gunderson, to adopt Ordinance No. 22, 1999, at this its second reading. Upon roll call, voting aye were Commissioners Dickinson, Reeves, Gunderson, Stewart and Mayor Dunnigan. Nay - none. Motion passed.

**REGULAR MEETING MARCH 18, 1999**  
**ORDINANCE NO. 23, 1999**

**ORDINANCE NO. 23, 1999**

**SECOND** AN ORDINANCE OF THE CITY OF ASHLAND,  
**READING** KENTUCKY, AUTHORIZING AND  
DIRECTING A. R. **AND** DUNNIGAN, MAYOR  
OF THE CITY OF ASHLAND, **FINAL**  
KENTUCKY, TO EXECUTE A CONTRACT  
WITH APG **ADOPTION** LIME CORP. FOR THE  
PURCHASE OF 1/4" PEBBLE LIME AT THE  
UNIT PRICE SPECIFIED IN THE BID FOR THE  
DEPARTMENT OF PUBLIC SERVICES, DIVISION  
OF WATER PRODUCTION.

\* \* \* \* \*

BE IT ORDAINED BY THE CITY OF ASHLAND, KENTUCKY:  
SECTION 1. That A. R. Dunnigan, Mayor of the  
City of Ashland, Kentucky be and he is hereby authorized  
and directed to execute a contract between the City of  
Ashland, Kentucky, and APG Corp., 3345 One Oak Road,  
Roanoke, Virginia, for the purchase of 1/4" pebble lime in  
accordance with the bid of the company in an amount not to  
exceed those set forth in the attached contract. A copy of  
said contract is attached hereto and made a part hereof by  
reference.

SECTION 2. All ordinances and parts of  
ordinances in conflict herewith, to the extent of such  
conflict only, are hereby repealed.

SECTION 3. This ordinance shall be in full  
force and effect from and after its adoption, readoption  
and publication, as required by law.

SECTION 4. It is hereby authorized that  
publication of this ordinance be in summary form.

/s/A. R. DUNNIGAN  
MAYOR

ATTEST:

/s/DEBORAH D. MUSSER  
CITY CLERK

ADOPTED BY THE BOARD OF COMMISSIONERS: March 4, 1999  
READOPTED BY THE BOARD OF COMMISSIONERS: March 18, 1999  
PUBLISHED:

**MOTION**

**READING** KENTUCKY, AUTHORIZING A. R. DUNNIGAN, **AND** MAYOR, TO EXECUTE A CONTRACT BETWEEN THE **FINAL** CITY OF ASHLAND AND UNIVERSAL COACH PARTS, **ADOPTION** INC. FOR THE PURCHASE OF A REPLACEMENT FOR A DETROIT DIESEL 6V92 DDEC III BUS ENGINE WITH EXCHANGE ENGINE FOR THE DIVISION OF MASS TRANSIT.

\* \* \* \* \*

BE IT ORDAINED BY THE CITY OF ASHLAND, KENTUCKY:

**REGULAR MEETING MARCH 18, 1999**  
**ORDINANCE NO. 24, 1999 CONTINUED**

SECTION 1. That A. R. Dunnigan, Mayor of the City of Ashland, Kentucky be and is hereby authorized to execute a contract between the City of Ashland, Kentucky, and Universal Coach Parts, Inc. for the purchase of a replacement for a Detroit Diesel 6V92 DDEC III Bus Engine with exchange engine for the Division of Mass Transit. A copy of said contract is attached hereto and made a part hereof by reference.

SECTION 2. All ordinances of the City of Ashland and any parts of ordinances in conflict herewith, to the extent of such conflict only, are hereby repealed.

SECTION 3. This ordinance shall be in full force and effect from and after its adoption, readoption and publication, as required by law.

SECTION 4. It is hereby authorized that publication of this ordinance be in summary form.

/s/A. R. DUNNIGAN  
MAYOR

ATTEST:

/s/DEBORAH D. MUSSER  
CITY CLERK

ADOPTED BY THE BOARD OF COMMISSIONERS: March 4, 1999  
READOPTED BY THE BOARD OF COMMISSIONERS: March 18, 1999  
PUBLISHED:

**MOTION**

Motion was made by Stewart, seconded by Reeves, to adopt Ordinance No. 24, 1999, at this its second reading. Upon roll call, voting aye were Commissioners Dickinson, Reeves, Gunderson, Stewart and Mayor Dunnigan. Nay - none. Motion passed.

**ORDINANCE NO. 25, 1999**

**SECOND** AN ORDINANCE OF THE CITY OF ASHLAND,

\* \* \* \* \*

BE IT ORDAINED BY THE CITY OF ASHLAND, KENTUCKY:

SECTION 1. That A. R. Dunnigan, Mayor, is hereby authorized and directed to execute on behalf of said City a Deed of Conveyance between the Eastern Kentucky Firemen's Association, Inc. and the City of Ashland, Kentucky conveying certain real estate along Roberts Drive to the City of Ashland. Said Deed of Conveyance is attached hereto and made a part hereof by reference.

SECTION 2. That A. R. Dunnigan, Mayor, is hereby authorized and directed to execute on behalf of said City any and all other documents related to this transaction.

SECTION 3. All ordinances of the City of Ashland and parts of ordinances in conflict herewith, to the extent of such conflict only, are hereby repealed.

SECTION 4. This ordinance shall be in full force and effect from and after its adoption, readoption and publication, as required by law.

SECTION 5. It is hereby authorized that publication of this ordinance be in summary form.

/s/A. R. DUNNIGAN  
MAYOR

**REGULAR MEETING MARCH 18, 1999**  
**ORDINANCE NO. 25, 1999 CONTINUED**

ATTEST:

/s/DEBORAH D. MUSSER  
CITY CLERK

ADOPTED BY THE BOARD OF COMMISSIONERS: March 4, 1999  
READOPTED BY THE BOARD OF COMMISSIONERS: March 18, 1999  
PUBLISHED:

**MOTION**

Motion was made by Stewart, seconded by Dickinson, to adopt Ordinance No. 25, 1999, at this its second reading. Upon roll call, voting aye were Commissioners Dickinson, Reeves, Gunderson, Stewart and Mayor Dunnigan. Nay - none. Motion passed.

**ORDINANCE NO. 26, 1999**

**SECOND**

AN ORDINANCE OF THE CITY OF ASHLAND,  
**READING** KENTUCKY, AUTHORIZING A. R.  
DUNNIGAN, **AND** MAYOR, TO EXECUTE A  
QUITCLAIM DEED OF **FINAL** CONVEYANCE  
BETWEEN THE CITY OF ASHLAND, **ADOPTION**  
KENTUCKY, AND KENNETH WILLIAMS, JR.  
AND MARTHA A. WILLIAMS AND LINTON  
WELLS, CONVEYING AN ABANDONED 10 FOOT  
EASEMENT ON CHESTNUT HILL DRIVE.

easement on Chestnut Hill Drive. Said Quitclaim Deed of Conveyance is attached hereto and made a part hereof by reference.

SECTION 2. That A. R. Dunnigan, Mayor, is hereby authorized and directed to execute on behalf of said City any and all other documents related to this transaction.

SECTION 3. All ordinances of the City of Ashland and parts of ordinances in conflict herewith, to the extent of such conflict only, are hereby repealed.

SECTION 4. This ordinance shall be in full force and effect from and after its adoption, readoption and publication, as required by law.

SECTION 5. It is hereby authorized that publication of this ordinance be in summary form.

/s/A. R. DUNNIGAN  
MAYOR

ATTEST:

/s/DEBORAH D. MUSSER  
CITY CLERK

ADOPTED BY THE BOARD OF COMMISSIONERS: March 4, 1999  
READOPTED BY THE BOARD OF COMMISSIONERS: March 18, 1999  
PUBLISHED:

**MOTION**

Motion was made by Gunderson, seconded by Stewart, to adopt Ordinance No. 26, 1999, at this its second reading. Upon roll call, voting aye were Commissioners Dickinson, Reeves, Gunderson, Stewart and Mayor Dunnigan. Nay - none. Motion passed.

**REGULAR MEETING MARCH 18, 1999**

**ORDINANCE NO. 27, 1999**

**ORDINANCE NO. 27, 1999**

**SECOND** AN ORDINANCE OF THE BOARD OF COMMISSIONERS **READING** OF THE CITY OF ASHLAND, KENTUCKY, CREATING **AND** THE DIVISION OF RECREATION; THE DIVISION OF **FINAL** PARK MAINTENANCE; CREATING THE BOARD OF **ADOPTION** PARK COMMISSIONERS AND PROVIDING FOR THE APPOINTMENT OF THE MEMBERS THEREOF; CREATING A CITY TREE BOARD AND PROVIDING FOR THE APPOINTMENT OF MEMBERS THEREOF; AND REPEALING ALL PRIOR RECREATION COMMISSIONS AND BOARDS OF PARK COMMISSIONERS, ORDINANCE NO. 32, SERIES OF 1973, ORDINANCE NO. 63, SERIES OF 1978 AND ALL AMENDMENTS THERETO.

new departments, combine or abolish existing departments and provide for the appointment and removal of a director and the employees of such department, and

WHEREAS, Kentucky Revised Statutes, Section 97.435, provides that the legislative body of any city of the second class may, by ordinance, create an administrative department for the operation of parks, playgrounds and recreational facilities as is provided by KRS 89.580, and

WHEREAS, the Board of Commissioners of the City of Ashland has determined that public parks, playgrounds and recreation facilities within the City of Ashland may be more efficiently, orderly and economically administered by the creation of a Division of Recreation,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF ASHLAND, KENTUCKY:

SECTION 1. That Ordinance No. 63, series of 1978, being an ordinance entitled, "AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF ASHLAND, KENTUCKY, CREATING THE DEPARTMENT OF RECREATION; CREATING THE DIVISION OF PARK MAINTENANCE WITHIN THE DEPARTMENT OF RECREATION; CREATING THE POSITIONS OF DIRECTOR OF RECREATION AND SUPERINTENDENT OF PARKS THEREIN; CREATING THE BOARD OF PARK COMMISSIONERS AND PROVIDING FOR THE APPOINTMENT OF THE MEMBERS THEREOF; CREATING FIVE RECREATION ADVISORY COMMISSIONS, BEING THE CENTRAL PARK RECREATION ADVISORY COMMISSION, THE SOUTHSIDE POOL RECREATION ADVISORY COMMISSION, THE CLYFFESIDE PARK RECREATION ADVISORY COMMISSION, AND THE CITY-SCHOOL RECREATION ADVISORY COMMISSION, AND PROVIDING FOR THE APPOINTMENT OF MEMBERS THEREOF; AND REPEALING ALL PRIOR ORDINANCES RELATING TO THE CREATION AND APPONTMENT OF PRIOR RECREATION COMMISSIONS AND BOARDS OF PARK COMMISSIONERS WITH THE EXCEPTION OF THE CITY-SCHOOL RECREATION COMMISSION, and all amendments thereto, i.e. Ordinance No. 5, series of 1980, Ordinance No. 6, series of 1980, Ordinance No. 64, series of 1980, Ordinance No. 119, series of 1987 and Ordinance No. 16, series of 1992 are hereby repealed.

SECTION 2. That Ordinance No. 32, series of 1973, being an ordinance entitled, "An Ordinance of the Board of Commissioners of the City of Ashland, Kentucky, Authorizing and Directing James J. Webb, Mayor of said City, to Execute on Behalf of Said City an Agreement Between the City of Ashland and the Ashland Independent School District, Creating and Establishing the Ashland City-School Recreation Board and Providing the Powers and Duties of Said Board and the Membership Thereof", and all amendments thereto are hereby repealed.

**REGULAR MEETING MARCH 18, 1999**

**ORDINANCE NO. 27, 1999 CONTINUED**

SECTION 3. DIVISION OF RECREATION. Pursuant to the provisions of Kentucky Revised Statutes 97.435 and 89.580, there is hereby created the Division of Recreation for the City of Ashland.

The Division of Recreation shall consist of such

for the scheduling of the use of city facilities and parks and shall be responsible for the operation and administration of city recreation programs. The Division of Recreation shall, with the approval of the Mayor and Board of Commissioners, after consultation with the Board of Park Commissioners, promulgate and post such rules and regulations as is deemed necessary for the conduct of persons in the parks. The Division of Recreation shall coordinate efforts with the other department of city government and the office of the City Manager.

#### SECTION 4. DIVISION OF PARK MAINTENANCE

There is hereby created within the Department of Public Services the Division of Park Maintenance.

Further, there is hereby recreated the position of Supervisor of Parks. The Division of Park Maintenance shall consist of the Supervisor of Parks and such other officers and employees as may be provided by the Board of Commissioners of the City of Ashland. The Supervisor of Parks shall be under the immediate direction, control and administration of the Director of Public Services or his assistant.

The duties of the Supervisor of Parks are as follows:

The Supervisor of Parks

(1) shall have charge of the care and upkeep of all parks and pools owned by the City of Ashland and shall see that such parks and pools are kept in a clean and well-maintained condition;

(2) shall report to the Director of Public Services when any of the park buildings or equipment need repair;

(3) shall see that all play areas and facilities are kept in good and safe condition and that all rest rooms and facilities are kept in a clean and sanitary condition.

(4) shall have supervision over all employees assigned to work in the Division of Park Maintenance; and

(5) shall coordinate the efforts of the Division of Park Maintenance with the other department of city government, the Division of Recreation, and the office of the City Manager.

SECTION 5. The Mayor of the City of Ashland, by and through the City Manager, Division of Recreation, and Department of Law, is directed to negotiate agreements between the Ashland Independent School District, the YMCA, YWCA, the Ashland Tennis Commission, and with any other public, semi-public, and private entity for the mutual benefit of the City of Ashland and the other party for cooperation in recreational programs and for use of recreational facilities and equipment insofar as such agreements are permitted by Kentucky law. All such agreements shall be approved by the Board of Commissioners prior to their execution.

#### SECTION 6. PARK AND TREE BOARD COMPENSATION

Members of the Park Board and Tree Board shall serve without compensation.

SECTION 7. PARK BOARD. Pursuant to Kentucky Revised Statutes 97.455 and 97.465, there is hereby created



meetings may constitute cause for removal from office. Any member of the Park Board may be removed by majority vote of the members of the legislative body of the City of Ashland.

**REGULAR MEETING MARCH 18, 1999**  
**ORDINANCE NO. 27, 1999 CONTINUED**

The Park Board shall be an advisory board only and shall advise the legislative body and the Director of Public Services of the City on appropriate park and recreational programs and projects and shall advise the legislative body and the Director of Public Services as to methods to promote the full use of all park facilities in the interest of the public.

The Park Board shall establish rules not inconsistent with the foregoing provisions and shall fix the time and place for holding of its meetings.

SECTION 8. CREATION AND ESTABLISHMENT OF A  
CITY TREE BOARD

There is hereby created and established a Tree Board for the City of Ashland, Kentucky as a sub-board of the existing Park Board which shall consist of five members, who are citizens and residents of this City. They shall be appointed by the Mayor with the approval of the Board of City Commissioners. At least one of the members shall be a member of the Park Board. The Park Board may recommend persons to be appointed to the Mayor.

SECTION 9. TREE BOARD. TERM OF OFFICE

The Park Board member(s) term(s) on the Tree Board shall be co-terminus with their respective term(s) on the Park Board. The term of the persons not Park Board members shall be three years. In the event that a vacancy shall occur during the term of any member, any successor shall be appointed for the unexpired portion of the term. Absence from more than two (2) consecutive meetings may constitute cause for removal from office.

SECTION 10. TREE BOARD OPERATION

The Tree Board shall elect a chairperson and keep minutes of its proceedings. A majority of the members shall be a quorum for the transaction of business.

SECTION 11. TREE BOARD DUTIES AND  
RESPONSIBILITIES

The Tree Board shall be responsible for the City's policy regarding, removal, topping and planting of trees in Central Park, Oliverio Park and all present and future parks and on the right-of-ways in the downtown Central Business District bounded on the East by 18<sup>th</sup> Street, on the North by Greenup Avenue, on the West by 12<sup>th</sup> Street and on the South by Carter Avenue.

It shall additionally be the responsibility of the Board to study, investigate, council and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs located in parks, and downtown business areas. Such plan will be presented annually to the City Commission and upon their acceptance

The Tree Board shall seek assistance as required from time to time from the University of Kentucky Agricultural Extension Agent for Boyd County in order that the Board may prepare its annual tree plan and make its recommendations to the City Manager.

#### SECTION 13. DEFINITIONS

Street trees: "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.

Park trees: "Park trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

#### SECTION 14. STREET TREE SPECIES TO BE PLANTED

The Tree Board shall maintain an official Street Tree species list for the City of Ashland, Kentucky. No other species may be planted as Street Trees without written prior approval of the City Tree Board.

#### SECTION 15. SPACING

No trees may be planted closer together than the following: Small Trees, 30 feet; Medium Trees, 40 feet; and Large Trees, 50 feet; except in special plantings designed or approved by the Tree Board. The tree board official street tree list shall designate trees by the three sizes.

### **REGULAR MEETING MARCH 18, 1999** **ORDINANCE NO. 27, 1999 CONTINUED**

#### SECTION 16. DISTANCE FROM CURB AND SIDEWALK

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in Section 15 above, and no trees may be planted closer to any curb or sidewalk than the following: Small Trees, 2 feet; Medium Trees, 3 feet; and Large Trees, 4 feet.

#### SECTION 17. DISTANCE FROM STREET CORNERS AND FIREPLUGS

No Street Tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curblines. No Street Tree shall be planted closer than 10 feet to any fireplug.

#### SECTION 18. UTILITIES

No Street Trees other than those species listed as Small Trees in Section 15 above may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.

#### SECTION 19. TREE TOPPING

It shall be unlawful as a normal practice for any person, firm, or city department to top any tree located in the parks and Downtown Business District, Park Tree, or other tree on public property without prior City Manager approval. Topping is defined as the severe cutting back of

The City has the right to plant, prune, maintain and remove trees, plants, shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. Nothing contained herein shall affect the City Manager's exercise of discretion as to normal trimming.

The City Tree Board shall recommend to the City Manager removal of any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. The City Manager shall have final authority. This Section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection and location of said trees in accordance with the provisions of this section.

SECTION 21. Should any section, subsection, sentence, clause or phrase of this ordinance be held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such decision shall not affect any other portion of this ordinance, it being the intention of the Board of Commissioners to enact this ordinance section by section, subsection by subsection, and all sentences, clauses or phrases hereof independently of any other section, subsection, sentence, clause or phrase.

SECTION 22. All ordinances and parts of ordinances in conflict herewith, to the extent of such conflict only, are hereby repealed.

SECTION 23. This ordinance shall be in full force and effect after the 18<sup>th</sup> day of March, 1999, and after its adoption, readoption and publication, as required by law.

SECTION 24. It is hereby authorized that publication of this ordinance shall be in summary form.

/s/A. R. DUNNIGAN  
MAYOR

ATTEST:

/s/DEBORAH D. MUSSER  
CITY CLERK

**REGULAR MEETING MARCH 18, 1999**  
**ORDINANCE NO. 27, 1999 CONTINUED**

ADOPTED BY THE BOARD OF COMMISSIONERS: March 4, 1999  
READOPTED BY THE BOARD OF COMMISSIONERS: March 18, 1999  
PUBLISHED:

**MOTION**

Motion was made by Stewart, seconded by Reeves, to adopt Ordinance No. 27, 1999, at this its second reading. Upon

RECOMMENDED BY THE CITY MANAGER ON THE  
ITEMS APPEARING ON THE CONSENT AGENDA  
FOR THE REGULAR MEETING OF THE BOARD OF  
CITY COMMISSIONERS OF MARCH 18, 1999.

\* \* \* \* \*

BE IT RESOLVED BY THE CITY OF ASHLAND, KENTUCKY:  
SECTION 1. The Board of City Commissioners  
hereby adopts, authorizes and approves the action  
recommended by the City Manager on each item appearing on  
the "Consent Agenda" for the meeting of March 18, 1999.  
Attached hereto and incorporated herein, as if set out in  
full, is a copy of the "Consent Agenda" hereby adopted,  
authorized and approved.

SECTION 2. This resolution shall be in full  
force and effect from and after its adoption, as required  
by law.

/s/A. R. DUNNIGAN  
MAYOR

ATTEST:

/s/DEBORAH D. MUSSER  
CITY CLERK

ADOPTED BY THE BOARD OF COMMISSIONERS: March 18, 1999

**MOTION**

Motion was made by Reeves, seconded by Stewart, to adopt  
Resolution No. 8, 1999. Upon roll call, voting aye were  
Commissioners Dickinson, Reeves, Gunderson, Stewart and  
Mayor Dunnigan. Nay - none. Motion passed.

**ORDINANCE NO. \_\_\_\_\_, 1999**

**FIRST**

AN ORDINANCE OF THE CITY OF ASHLAND,  
**READING** KENTUCKY, AUTHORIZING AND  
DIRECTING A. R. **AND** DUNNIGAN,  
MAYOR, TO EXECUTE AN AGREEMENT **ADOPTION**  
WITH SUPERIOR **ONLY**  
CHRYSLER/PLYMOUTH/DODGE/JEEP EAGLE  
REGARDING A SIGN ENCROACHMENT AT 1000  
GREENUP AVENUE ON THE CITY'S RIGHT-OF-  
WAY.

**REGULAR MEETING MARCH 18, 1999**  
**ORDINANCE NO. \_\_\_\_\_, 1999 CONTINUED**

**MOTION**

Motion was made by Gunderson, seconded by Stewart, to adopt

DIRECTING A. R. AND DUNNIGAN,  
MAYOR, TO EXECUTE AN AGREEMENT ADOPTION  
WITH TOM BURNETTE, OFFICE FURNITURE  
USA, ONLY REGARDING A SIGN ENCROACHMENT  
AT 2781 WINCHESTER AVENUE ON THE CITY'S  
RIGHT-OF-WAY.

**MOTION**

Motion was made by Reeves, seconded by Stewart, to adopt Ordinance No. \_\_\_\_\_, 1999, at this its first reading. Upon roll call, voting aye were Commissioners Dickinson, Reeves, Gunderson, Stewart and Mayor Dunnigan. Nay - none. Motion passed.

**ORDINANCE NO. \_\_\_\_\_, 1999**

**FIRST**

AN ORDINANCE OF THE CITY OF ASHLAND,  
READING KENTUCKY, AUTHORIZING AND  
DIRECTING A. R. AND DUNNIGAN,  
MAYOR, TO SUBMIT A GRANT ADOPTION  
APPLICATION TO THE FEDERAL TRANSIT  
ONLY ADMINISTRATION ON BEHALF OF THE  
ASHLAND BUS SYSTEM FOR OPERATING COSTS  
IN THE AMOUNT OF \$278,000.00; PLANNING  
COSTS IN THE AMOUNT OF \$16,00.00;  
CAPITAL ASSISTANCE REIMBURSEMENT FOR  
PREVENTIVE MAINTENANCE IN THE AMOUNT OF  
\$43,335.00 AND CAPITAL ASSISTANCE FOR  
PARATRANSIT SERVICE IN THE AMOUNT OF  
\$43,519.00, AND FURTHER AUTHORIZING AND  
DIRECTING A. R. DUNNIGAN, MAYOR, TO  
EXECUTE ANY AND ALL DOCUMENTS NECESSARY  
FOR THE IMPLEMENTATION OF THIS GRANT.

**MOTION**

Motion was made by Stewart, seconded by Reeves, to adopt Ordinance No. \_\_\_\_\_, 1999, at this its first reading. Upon roll call, voting aye were Commissioners Dickinson, Reeves, Gunderson, Stewart and Mayor Dunnigan. Nay - none. Motion passed.

**ORDINANCE NO. \_\_\_\_\_, 1999**

**FIRST**

AN ORDINANCE OF THE CITY OF ASHLAND,  
READING KENTUCKY, AMENDING SECTION 5  
OF ORDINANCE AND NO. 80, SERIES  
OF 1995, AS PREVIOUSLY AMENDED ADOPTION  
BY ORDINANCE NO. 19, SERIES OF  
1996, AND BY ONLY ORDINANCE NO. 83,  
SERIES OF 1997, WHICH ESTABLISHED SEWER  
RATES, TAP FEES, INSTALLATION CHARGES,  
SERVICE CHARGES, INDUSTRIAL  
PRETREATMENT CHARGES, PENALTIES AND  
INTEREST.

roll call, voting aye were Commissioners Dickinson, Reeves, Gunderson, Stewart and Mayor Dunnigan. Nay - none. Motion passed.

**ORDINANCE NO. \_\_\_\_\_, 1999**

**FIRST** AN ORDINANCE OF THE CITY OF ASHLAND,  
**READING** KENTUCKY, AMENDING THE  
STANDARD **AND** OPERATING POLICY FOR  
THE CITY'S EMPLOYEE **ADOPTION** EVALUATION  
PROGRAM INCLUDED IN THE **ONLY** "PERSONNEL  
POLICIES AND PROCEDURES" AS ADOPTED BY  
ORDINANCE NO. 25, SERIES OF 1991, AS  
PREVIOUSLY AMENDED.

**MOTION**

Motion was made by Stewart, seconded by Reeves, to adopt Ordinance No. \_\_\_\_\_, 1999, at this its first reading. Upon roll call, voting aye were Commissioners Dickinson, Reeves, Gunderson, Stewart and Mayor Dunnigan. Nay - none. Motion passed.

**DISCUSSION ITEM**

**Sign ordinance appeal by Fifth Third Bank at 1422 Winchester Avenue** - Motion was made by Stewart, seconded by Gunderson, approving the waiver of the sign ordinance. Upon roll call, voting aye were Commissioners Dickinson, Reeves, Gunderson, Stewart and Mayor Dunnigan. Nay - none. Motion passed.

**ADJOURNMENT**

Mayor Dunnigan declared the meeting adjourned at 8:20 PM.

—

\_\_\_\_\_  
A.R. DUNNIGAN, MAYOR

ATTEST:

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DEBORAH D. MUSSER  
CITY CLERK